

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)
)
v.) No. 3:03-CR-126
) (Phillips)
JERMAINE ALLEN)

ORDER

This matter is before the court on the defendant's motion to modify sentence brought pursuant to 18 U.S.C. § 3582(c) [Doc. 30]. The government has not filed any objection to the defendant's motion. The court has received a modified presentence report from the United States Probation Office.

The defendant was sentenced by this court on March 26, 2004, to 97 months imprisonment for distribution and possession with intent to distribute five grams or more of crack cocaine. This sentence was based on a guideline range of 121-151 months (base offense level 31 and a criminal history category II), which was reduced based on the government's motion for a downward departure due to substantial assistance. According to the Bureau of Prisons, the defendant is scheduled for release on August 21, 2009.

Under the retroactive amendment to the crack guidelines, the defendant's new restricted guideline range is 97-121 months (base offense level 29 and a criminal

history category II). With a comparable departure (20%), the defendant's sentence would be 78 months.

It is hereby **ORDERED** that the defendant's motion [Doc. 30] is **GRANTED**, and the defendant's sentence is reduced to 78 months. If this sentence is less than the amount of time the defendant has already served, the sentence is reduced to a "time served" sentence. This Order shall take effect ten (10) days from its entry in order to give the Bureau of Prisons time to process the release of the defendant. Except as provided above, all provisions of the judgment dated March 26, 2004, shall remain in effect.

ENTER:

s/ Thomas W. Phillips

United States District Judge